



Navy Safety Programs & New Ship Construction

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Overview



- CNO & CMC
 - Develops ESOH requirement
 - Sets policy for oversight of contractor worksite safety
- ASN(RD&A)
 - Performance based procurement
- “Systems safety” designed into ship vs. “safety plan” to oversee contractor performance

Requirement



- CNO Noise Specification
 - Is a safety program manual suitable to communicate a design requirement?
 - OPNAVINST 5100.19E, Safety Afloat
 - Procurement specifications for noise
 - All new machinery and equipment
 - New ship design
 - Repeat ship design
 - Ship alteration



DoD Oversight Policy



- DoD Inst 6055.1 (1998)
 - DoD components may provide contractor oversight where it is in their best interests
 - DoD oversight has historically contributed to lower accident rates among certain contractor employees, on-time delivery of products and services (increased readiness), and ultimate savings to the Government



OSHA Multi-Employer Citation Policy



- Current Multi-Employer Citation Policy in two steps

Step One

Determine the employer's status

“creating employer”

“controlling employer”

“correcting employer”

“exposing employer”



Portrait of one Controlling Employer



Secretary of Labor v. Summit
Contractors, Inc. (Occupational Safety & Health
Review Commission 2007)

- Summit “could reasonably be expected to prevent or detect and abate the violative condition by reason of its supervisory capacity and control over the worksite.”
- Includes consideration of contract terms



OSHA Multi-Employer Citation Policy



- Current Multi-Employer Citation Policy in two steps

Step Two

*Determine if the employer exercised
“reasonable care”*



OSHA on Reasonable Care



- Reasonable care may include:
 - Inspected for safety requirements
 - Conducted worksite safety meetings or training
 - Enforced compliance “with a graduated system of enforcement”
- We’ll see later how this can be accomplished in a Government contract

Admiralty & Tort Liability





CNO Policy



- OPNAVINST 5100.23G (2005)
 - **Navy activities must have a clear understanding of who has responsibility, by contract, agreement or practice for the safety and health of all contractor employees.** This determination should only be made in consultation with the Contracting Officer and appropriate legal counsel.

What if these men fall?





Get Them When They're Hungry!



- NAVFAC Evaluation of offerors
 - Past performance
 - Facility Accident Investigation Report database
 - Experience Modification Rating
 - OSHA rating
 - Hazard analysis, and plans
- During contract administration
 - Safety plan may be used to encourage a progressive safety culture at the contractor's facility



EXXON-Mobil “Safety Process”



- Evaluation of Offerors
 - Pre-qualification Questionnaire
 - Culture Assessment
 - Progressive, Emerging, Traditional
- Discussions
 - Opportunities for Improvement Worksheet
 - Resolution Plan
- Source Selection
 - Evaluation incorporating all of the above



Walking the Safety & Liability Tightrope



- Inspected for safety requirements
 - Inspect Safety Plan rather than individual contractor employees
 - So far this has satisfied OSHA that Navy is not a controlling employer
 - Safety walk-through
 - Stop Work
- Enforced compliance “with a graduated system of enforcement”
 - Corrective Action Reports



Walking the Safety & Liability Tightrope



- Provided incentives for progressive safety culture
 - Incentive fee processes
 - Assessment of performance
 - Investigations



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